



Commodity Futures Trading Commission

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Statement

Opening Statement of Chairman Gary Gensler, Commodity Futures Trading Commission, Joint Meeting with the Securities and Exchange Commission

September 2, 2009

Good morning. I call to order this joint meeting of the Commodity Futures Trading Commission and the Securities and Exchange Commission. This is the first of two days of public meetings on how the CFTC and SEC can best harmonize financial regulations to protect the American public. I would like to also note the historic nature of this meeting – it is the first joint meeting in the history of the two agencies.

I would like to thank Chairman Schapiro, my fellow Commissioners, members of the Securities and Exchange Commission and our distinguished panelists for being here today.

In a White Paper released on June 17th, 2009, President Obama called on the CFTC and the SEC to “make recommendations to Congress for changes to statutes and regulations that would harmonize regulation of futures and securities.”

The CFTC and the SEC have a shared mission to protect the American public by promoting market integrity, transparency and preventing and prosecuting fraud, manipulation and other abuses. There are some areas where our missions differ. We regulate two different markets using different regulatory schemes. But our goal is singular: we must protect the American public.

In 1934, President Roosevelt boldly proposed to the Congress “the enactment of legislation providing for the regulation by the Federal Government of the operation of exchanges dealing in securities and commodities for the protection of investors, for the safeguarding of values, and so far as it may be possible, for the elimination of unnecessary, unwise, and destructive speculation.” The Congress swiftly responded to the clear need for reform by enacting the Securities Exchange Act of 1934. Two years later it passed the Commodity Exchange Act of 1936.

While our missions are similar, President Roosevelt established the SEC and the precursor to the CFTC in the 1930s to regulate two different types of markets. The

CFTC oversees derivatives marketplaces, and the SEC oversees securities issuance and markets. The CFTC has a long history of regulating risk management contracts, while the SEC has an equally long history promoting capital formation and protecting investors.

Notwithstanding these different marketplaces, we have a shared goal of promoting transparency and market integrity. Both agencies strive to ensure for fair and orderly markets and guard against fraud, manipulation and other market abuses.

President Obama called on the CFTC and the SEC to ensure that our regulatory structures best serve the American public. Specifically, there are three areas where this would benefit the American public:

First, as we saw last year, there are significant gaps in our financial regulatory system. I believe that we must act urgently to reduce risk, protect market integrity and promote market transparency by adopting comprehensive regulatory reform for over the counter derivatives. When Congress returns from recess, I believe that we have a real opportunity to establish a consistent statutory framework. I look forward to working with Congress and the SEC to establish authorities to regulate all OTC derivatives. I believe as well that if we set out on the right track with consistency from the beginning, we can best avoid jurisdictional issues later.

Second, there are areas where CFTC and SEC regulation overlap. In some cases this may be beneficial to the American people – the CFTC currently brings one third of its enforcement cases jointly with the SEC. At other times, it may represent inefficient use of resources, potential for regulatory arbitrage or uncertainty for regulated parties. We have to limit overlap to only where it is beneficial, such as in joint enforcement. In these circumstances, the markets and the public may benefit from having a second cop on the beat. In other areas of overlap, however, we must make sure to eliminate opportunities for arbitrage or regulatory uncertainty.

Third, there are areas where the CFTC and SEC regulate similar products, practices or markets, but do so differently. There are times when these differences are appropriate, but at other times, they could stifle competition, increase costs or limit investor protection.

As we seek to provide consistency in our regulations over financial markets, our focus must remain on protecting the American public. Upon joining the CFTC, I held a staff town hall meeting and discussed the importance of working with other regulators, directing everyone to check turf at the door and focus solely on striving for the best public policy. The American people are not interested in bureaucratic turf battles; they simply need regulators that will ensure that the failures of our system – failures that have already taken a toll on every American – never happen again. All options must be on the table, and there should be no sacred cows.

I hope as a result of these meetings and our continued work with the SEC that we will be able to report significant recommendations to the President and to Congress on these important issues.

We are fortunate to have a great partner in Chairman Mary Schapiro. Since our designations were jointly announced by then President-elect Obama, we have had a strong working relationship. As Chairman of the SEC, former Chairman of the CFTC and CEO of FINRA, Chairman Schapiro brings invaluable expertise in both the securities and commodity futures areas. I, too, have been privileged to have had broad exposure to financial markets, in public service and on Wall Street, and as an investor advocate and a government official, including leading then-President-elect Obama's SEC transition review team. Our mutual understanding, dedicated staffs and respective Commission support gives me great confidence that we will be able to get the job done.

This task is not without challenges. There are certainly differences between our regulations where some will prefer the status quo. We are embarking on this challenge while both agencies have full regulatory and legislative agendas. No doubt, there will be legitimate differences of points of view to be reconciled. I look forward, however, to working with my fellow Commissioners, Chairman Schapiro and the SEC to make sure that our regulations best protect the American public.

The President has asked that we forward our recommendations by September 30th, and we will certainly endeavor to achieve that goal.

We have an outstanding group of panelists participating in our meetings today and tomorrow. We look forward to hearing a wide variety of viewpoints on these very important issues. Written comments on the topic of this hearing also will be accepted from the public until September 14th, 2009, and included in the record. Please visit cftc.gov or sec.gov for a link and instructions to submit written comments for the record.

I will now turn to Chairman Schapiro for her opening remarks.